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Attorney's Docket: 2002DE106

Serial No.: 10/510.088

Art Unit: 1755

Response to Office Action of May 2, 2007

**REMARKS/ARGUMENTS**

The Office Action mailed May 1, 2007 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Applicant has amended the Application to more clearly recite what Applicant believes to be the invention. Claim 1, as amended now more clearly recites that the pigment preparation comprises an organic pigment selected from the group consisting of monoazo pigments, diazo pigments, diazo condensation pigments, laked azo pigments, triphenylmethane pigments, thio indigo pigments, thiazine-indigo pigments, perylene pigments, perinone pigments, anthanthrone pigments, diketopyrrolopyrrole pigments, dioxazine pigments, quinacridone pigments, phthalocyanine pigments, isoindolinone pigments, isoindoline pigments, benzimidazolone pigments, naphthol pigments, quinophthalone pigments, furnace blacks and gas blacks. Support for this amendment may be found in Applicant's originally filed claims 1 and 4. Claims 8 and 11 were amended to attend to formal matters. Support for these amendments may be found in Applicant's originally filed claims 8 and 11. Claims 4 and 5 were canceled. It is believed that no new matter has been added to the Application and that no additional search is required on the part of the office.

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Claims 1, 3, 5-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper). The rejection of claim 1, as amended, under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper), should be withdrawn for the reason that both the '649 and the '030 Papers are directed to the coloring of fertilizers, but both the '649 and '030 Papers teach away from Applicant's invention by employing inorganic talcs, metal oxides and silica pigments, and for the reason that the '649 and '030 Papers are silent on any use of organic pigments as claimed by Applicant, and no one skilled in the art would arrive at Applicant's invention from any combination of the disclosures the '649 or the '030 Papers. The '649 Paper discloses and claims a method of coating fertilizer particles with a coating composition comprising an inorganic pigment. The '649 Paper is silent on the use of any organic pigment. Thus, the '649 Paper teaches away from Applicant's process for coloring fertilizer particles with organic pigments and no one skilled in the art would have any expectation of success for substituting an organic pigment for the inorganic pigment. The '030 Paper may provide an equivalence of mineral oil and vegetable oil in suspending inorganic pigments for coloring fertilizers, but the '030 Paper only teaches the use of inorganic pigments, and teaches away or is at best silent on the use of any organic pigments to color fertilizer particles. Thus, the process of Applicant's invention is different from the process of the '649 Paper and the '030 Paper, and no one skilled in the art would replace the inorganic pigment with an organic pigment in the process of the '649 and the '030 Papers because

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both papers disclose the difficulty of coloring fertilizers and fertilizer blends with an even distribution of pigment, and for the reason that obvious to try is not the standard of 35 USC 103, and for the reason that there is no expectation of success for such a substitution. Therefore, the rejection of claim 1, as amended, under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper), should be withdrawn for the reason that both the '649 and '030 Papers teach away from applicant's invention by requiring an inorganic pigment which is absent from Applicant's invention, and no one skilled in the art would be motivated to replace the inorganic pigment in the methods of the '649 and '030 Papers because there is no expectation of success and no one skilled in the art would be motivated to make the substitution without the improper use of hindsight.

The rejection of claims 3 and 5-13, as amended under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper), should be withdrawn for the reasons given in support of amended claim 1 from which they depend.

Claim 1 and 2 as amended stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper) and further in view of US Patent No. 6,486,248 to Ashley ('248 Patent). The rejection of claims 1 and 2 as amended under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper) and further in view of US Patent No. 6,486,248 to Ashley ('248 Patent), should be

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withdrawn for the reasons given hereinabove in connection with the '649 and the '030 Papers and for the reason that the '248 Patent to Ashley teaches away from Applicant's invention. The '248 Patent discloses liquid polymeric colorants which are not the same as Applicant's organic pigments. The liquid polymeric colorants disclosed in '248 Patent are organic colorants which are hydrocarbon soluble liquid polymeric colorants. None of the organic pigments recited in Applicant's invention are either hydrocarbon soluble or polymeric. A hydrocarbon soluble liquid polymeric colorant having an azo chromophore (See '248 at column 2, lines 20-22) is not the same as Applicant's monoazo pigments, diazo condensation pigments, or laked azo pigments (See '248 in Col 2, lines 3-7). Therefore, the rejection of claims 1 and 2 as amended under 35 U.S.C. 103(a) as being unpatentable over WO 00/76649 A1 to Lofgren et al. ('649 Paper) in view of WO 97/19030 to Tilokavichai et al. ('030 Paper) and further in view of US Patent No. 6,486,248 to Ashley ('248 Patent), should be withdrawn for the reason that all the references teach away from Applicant's invention as discussed hereinabove, particularly the '248 Patent which teaches the use of a liquid polymeric colorant which is soluble in hydrocarbon medium and teaches away from Applicant's organic pigments, and no one skilled in the art would be motivated to arrive at Applicant's invention based on the cited references without the improper use of hindsight.

It is respectfully submitted that, in view of the above remarks, the objections to the claims for formal matters, and the rejections under §103 should be withdrawn and that this application is in a condition for an allowance of all pending claims.

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Accordingly, favorable reconsideration and an allowance of all pending claims are  
courteously solicited.

An early and favorable action is courteously solicited.

Respectfully submitted,



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